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EXAMINER

DINH, KHANH Q

ART UNIT PAPER NUMBER

2151

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/520,029

Applicant(s)

KANOJIA ET AL.

Examiner

Khanh Dinh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-40 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

1. This is in response to the Amendment filed on 1/2/2004 (paper # 10). Claims 1-40 are presented for examination.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5-30, 33-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kupka et al US pat. No.6,434,535 in view of Tso et al., US pat. No.6,047,327.

As to claim 1, Kupka discloses a system for deploying content to network devices (20's fig.1) over a data network (12 fig.1), comprising:

a content store (vendor server 16c fig.1) that stores the content.

a system manager (Media Tracking Server 16a fig.1) for downloading of content from the data store to targeted network devices and downloading criteria for activation of the content on the targeted network devices (activation of Media upon authentication of users, see abstract, fig.1, col.8 lines 11-54 and col.11 line 17 to col.12 line 53).

the system manager (16a fig.1) further initiating download of the messages to the targeted devices and the targeted devices (10's fig.1) downloading and activating the targeted content according to the messages (see fig.7, col.13 line 9 to col.14 line 53). Kupka does not specifically disclose generating messages to schedule download the content to the targeted network devices. However, Tso discloses by generating messages to schedule download targeted content to the targeted network devices (using the schedule/resource controller 61 of fig.5 to delivery the content to clients based on the time of day, the location of the user and user profile criteria, see abstract, fig.5, col.13 line 27 to col.14 line 51). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to utilize Tso's schedule/resource controller to control the distribution of data information because it would have allowed information providers and marketers to only send information to appropriate users and reduced excessive waste of bandwidth and transmission capability.

As to claims 2, Kupla discloses that the system manager selects the targeted network devices among other network devices on the data network based on profile information associated with the network devices (see col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claim 5, Kupka discloses a bulk data transfer manager (16c fig.1) that has access to the content store and a bulk data transfer agent executing in the network devices that requests the content from the bulk data transfer manager, the bulk data transfer

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requests the content from the bulk data transfer manager, the bulk data transfer manager downloading the content from the content store to the bulk data transfer agent, which stores the content on the network device (see fig.1, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claim 6, Kupka discloses a system agent, executing in the network device, the system manager requesting the system agent to download the content and the system agent requesting the bulk data transfer agent to download the content from the bulk data transfer manager (see fig.1, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 7 and 8, Kupka discloses a management console that provides an interface to identify content for deployment on the network devices, the management console downloading the content to the content store and an interface to identify a group profile for targeting the network devices for content deployment, the management console downloading the group profile (using Unique Identifiers assigned to users) the content store (see figs.1, 3, col.12 line 5 to col.13 line 42 and col.15 line 9 to col.16 line 64).

As to claims 9 and 10, Kupka discloses an interface for identifying activation criteria for activating the content on the network devices and a system agent executing on the network device and the system manager activating the downloaded content sending a

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message to the system agent to activate the downloaded content (see fig.1, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 11 and 12, Kupka discloses system agent executing on the network device, the system agent activating the downloaded content on the network device at a predetermined date and time, in response to an event (see fig.1, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 13-15 and 16-18, Kupka discloses a channel event, an attachment of a peripheral device to the network device and a promotion notification agent executing on the network device, wherein the downloaded content is a promotion; the promotion notification agent activating the promotion in response to an event (see fig.8, col.8 lines 12-54, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 19-22, neither Kupka nor Tso specifically discloses a cable network, a satellite-linked network, a Digital Subscriber Line network and a wireless network. However, Kupka discloses using the computer system in the environment of TCP/IP, WAN, LAN, Internet Service Providers (ISPs) (see col.8 lines 12-54). The use of a cable network, a satellite-linked network, a Digital Subscriber Line network and a wireless network, being similar to TCP/IP, WAN, LAN, Internet Service Providers (ISPs), are also well known in the network communications. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to use either of the

above network environments depending on the choice of the implementation, and still achieve the same end results.

Claim 23 is rejected for the same reasons set forth in claim 1. As to the added limitation, Kupka further discloses a promotion notification agent that activates the content based on the activation criteria (see also fig.8, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claim 24, Kupka discloses the promotion notification agent waits for a message from the system agent to activate the content (see fig.8, col.13 line 9 to col.14 line 53 and col.17 line 47 to col.18 line 63).

As to claims 25 and 26, Kupka discloses the promotion notification agent waits for a predetermined date and time established by the activation criteria to activate the content and monitoring user activity and waits for a predetermined user action established by the activation criteria to activate the content (see col.11 line 27 to col.12 line 53 and col.13 line 9 to col.14 line 52).

As to claims 27 and 28, Kupka discloses monitoring a video stream for embedded signal established by the activation criteria to activate the content and a current channel for a television display device and activates the content in response to the current channel (see figs.6, 7, col.13 line 9 to col.14 line 52 and col.15 line 9 to col.16 line 63).

Claims 29, 30, 33-39 are rejected for the same reasons set forth in claims 1, 2, 5, 8, 11, 12, 14, 28 and 27 respectively.

Claim 40 is rejected for the same reasons set forth in claim 23 with the combination of Kupka and Tso. As to the added limitation, Kupka discloses the content information can be a promotion data (making different electronic contents including media, software, music and video available for purchase over the Internet, see fig.7, col.1 line 26 to col.2 line 55, col.4 lines 6-63 and col.8 lines 12-54).

4. Claims 3, 4, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kupka and Tso as in item 3 above and further in view of Thompson et al., US pat. No.5,961,602.

Tso discloses generating messages to schedule download targeted content to the targeted network devices (using the schedule/resource controller 61 of fig.5 to delivery the content to clients based on the time of day, the location of the user and user profile criteria, see abstract, fig.5, col.13 line 27 to col.14 line 51). Neither Kupka nor Tso specifically discloses downloading of the content to the targeted network devices during periods when low usage of the data and initiating downloading of the content to the targeted network devices when usage of the data network falls below a predetermined level. However, Thompson discloses downloading of the content to the targeted network devices during periods when low usage of the data and initiating downloading



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of the content to the targeted network devices when usage of the data network falls below a predetermined level (restricted downloaded periods, see abstract, fig.5, col.8 line 13 to col.9 line 62 and col.10 line 5 to col.11 line 19). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Thompson's teachings into the computer system of Kupka to process data information because it would have ensured maximum utilization of network devices during off-peak caching of Web data from the World Wide Web of the Internet.

***Other prior art cited***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Downs et al., US pat. No.6,226,618.
- b. Milsted et al., US pat. No.6,345,256.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Claims 1-40 are rejected.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is 703-308-8528. The examiner can normally be reached on 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

  
**FRANTZ B. JEAN**  
**PRIMARY EXAMINER**